

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SHAHEED TAALIB'DIN MADYUN,

ORDER

Plaintiff,

08-cv-32-bbc

v.

KIRBY LINJER,

Defendant.

A jury trial was held in this case on October 22 and 23, 2008. The jury returned a verdict in favor of defendant Kirby Linjer and judgment was entered in his favor on October 23, 2008. Plaintiff filed a notice of appeal on November 20, 2008 and paid the \$455 filing fee for the appeal. Now plaintiff moves to use funds in his release account to pay for transcript costs.

The use of release account funds is governed by state law. See Wis. Admin. Code § DOC 309.466. According to § 309.466(2), “[r]elease account funds may not be disbursed for any reason until the inmate is released to field supervision, except to purchase adequate clothing for release and for out-of-state release transportation.” The only exception is that release funds can be used to pay an initial partial filing fee under the 1996 Prison Litigation Reform Act. Because release funds cannot be used for any other reason, I will deny plaintiff’s request to use his release funds to pay for transcripts.

In the alternative, plaintiff asks that he be allowed to obtain the transcripts at no cost.

The relevant statute, 28 U.S.C. § 753(f), provides as follows:

Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

Because plaintiff was not allowed to proceed in forma pauperis on appeal, he cannot be provided transcripts at no cost under this statute.

ORDER

IT IS ORDERED that plaintiff's motion to use his release account funds to pay for transcripts, dkt. # 131, is DENIED.

Entered this 17th day of December, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge